
By: **Chairman, Ways and Means Committee (By Request - Departmental - Assessments and Taxation)**

Introduced and read first time: January 28, 2004

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 2, 2004

CHAPTER _____

1 AN ACT concerning

2 **Homestead Tax Credit - Agricultural Limited Liability Company**

3 FOR the purpose of altering the definition of "homeowner" under the Homestead Tax
4 Credit to allow certain limited liability companies to claim the credit under
5 certain circumstances; authorizing semiannual property tax payment for certain
6 limited liability companies under certain circumstances; providing for the
7 application of this Act; and generally relating to the Homestead Tax Credit.

8 BY repealing and reenacting, with amendments,
9 Article - Tax - Property
10 Section 9-105(a) and (c)
11 Annotated Code of Maryland
12 (2001 Replacement Volume and 2003 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article - Tax - Property
15 Section 10-204.3
16 Annotated Code of Maryland
17 (2001 Replacement Volume and 2003 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Tax - Property**

2 9-105.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) (i) "Dwelling" means:

5 1. a house that is:

6 A. used as the principal residence of the homeowner; and

7 B. actually occupied or expected to be actually occupied by
8 the homeowner for more than 6 months of a 12-month period beginning with the date
9 of finality for the taxable year for which the property tax credit under this section is
10 sought; and

11 2. the lot or curtilage on which the house is erected.

12 (ii) "Dwelling" includes:

13 1. a condominium unit that is occupied by an individual who
14 has a legal interest in the condominium;15 2. an apartment in a cooperative apartment corporation that
16 is occupied by an individual who has a legal interest in the apartment; and17 3. a part of real property used other than primarily for
18 residential purposes, if the real property is used as a principal residence by an
19 individual who has a legal interest in the real property.20 (3) "Homeowner" means an individual who has a legal interest in a
21 dwelling OR WHO IS AN ACTIVE MEMBER OF AN AGRICULTURAL LIMITED LIABILITY
22 COMPANY THAT HAS A LEGAL INTEREST IN A DWELLING.

23 (4) "Legal interest" means an interest in a dwelling:

24 (i) as a sole owner;

25 (ii) as a joint tenant;

26 (iii) as a tenant in common;

27 (iv) as a tenant by the entireties;

28 (v) through membership in a cooperative;

29 (vi) under a land installment contract, as defined in § 10-101 of the
30 Real Property Article; or

31 (vii) as a holder of a life estate.

1 (5) "Taxable assessment" means the assessment on which the State,
2 county, or municipal corporation property tax rate was imposed in the preceding
3 taxable year, adjusted by the phased-in assessment increase resulting from a
4 revaluation under § 8-104(c)(1)(iii) of this article, less the amount of any assessment
5 on which a property tax credit under this section is authorized.

6 (6) "AGRICULTURAL LIMITED LIABILITY COMPANY" MEANS A LIMITED
7 LIABILITY COMPANY THAT:

8 (I) OWNS REAL PROPERTY THAT:

9 1. INCLUDES LAND RECEIVING AN AGRICULTURAL USE
10 ASSESSMENT UNDER § 8-209 OF THIS ARTICLE; AND

11 2. INCLUDES LAND USED AS A HOMESITE THAT IS PART OF
12 OR CONTIGUOUS TO A PARCEL DESCRIBED IN ITEM 1. OF THIS ITEM;

13 (II) OWNS PERSONAL PROPERTY USED TO OPERATE THE
14 AGRICULTURAL LAND; AND

15 (III) OWNS NO OTHER PROPERTY.

16 (7) "ACTIVE MEMBER" MEANS A MEMBER OF A LIMITED LIABILITY
17 COMPANY WHO HAS OR SHARES THE AUTHORITY TO MANAGE, CONTROL, AND
18 OPERATE THE LIMITED LIABILITY COMPANY AND WHO SHARES THE ASSETS AND
19 EARNINGS OF THE LIMITED LIABILITY COMPANY UNDER AN OPERATING
20 AGREEMENT UNDER § 4A-402 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

21 (c) (1) If a dwelling is not used primarily for residential purposes, the
22 Department shall apportion the total property assessment between the part of the
23 dwelling that is used for residential purposes and the part of the dwelling that is not
24 used for residential purposes.

25 (2) If a homeowner does not actually reside in a dwelling for the required
26 time period because of illness or need of special care and is otherwise eligible for a
27 property tax credit under this section, the homeowner may qualify for the property
28 tax credit under this section.

29 (3) (I) FOR A HOMEOWNER WHO IS AN ACTIVE MEMBER OF AN
30 AGRICULTURAL LIMITED LIABILITY COMPANY TO QUALIFY FOR THE PROPERTY TAX
31 CREDIT UNDER THIS SECTION:

32 1. THE DWELLING MUST HAVE BEEN OWNED AND OCCUPIED
33 BY THE ~~RESIDENT~~ ACTIVE MEMBER:

34 A. AT THE TIME OF ITS TRANSFER TO THE AGRICULTURAL
35 LIMITED LIABILITY COMPANY; OR

36 B. IF THE DWELLING WAS ORIGINALLY TRANSFERRED TO
37 THE AGRICULTURAL LIMITED LIABILITY COMPANY AS PART OF A CONVERSION FROM

1 (2) The first installment of a semiannual payment shall be paid on or
2 before September 30.

3 (e) A semiannual payment schedule may include a service charge to be paid
4 with the second installment.

5 (f) A service charge:

6 (1) shall be:

7 (i) adopted by the taxing authority that collects the property taxes
8 after obtaining the prior approval of the amount of the service charge from the
9 Department, as part of adoption of the property tax rate under §§ 6-301 through
10 6-303 of this article;

11 (ii) applicable to all property tax being collected by the taxing
12 authority on the semiannual payment schedule for itself and for any other taxing
13 authority;

14 (iii) expressed as a percent of the amount of tax due at the second
15 installment and shown on the tax bill as a percent and actual dollar amount charged;
16 and

17 (iv) calculated in an amount:

18 1. reasonably equivalent to the anticipated lost interest
19 income associated with the 3-month delay in payment of the second installment by
20 multiplying the amount of the second installment by a rate not exceeding 1.5%; and

21 2. covering administrative expenses associated with the
22 semiannual payment not exceeding the lesser of the actual expenses incurred in the
23 preceding fiscal year per semiannual tax account as approved by the State
24 Department of Assessments and Taxation or 10% of the charge for the anticipated lost
25 interest income as calculated in item 1 of this item;

26 (2) does not apply if both installments of property tax are paid on or
27 before September 30 of the taxable year; and

28 (3) may not be considered to be a property tax for the purposes of any
29 provision of a local law or charter that limits the property tax rate or property tax
30 revenues.

31 (g) The local taxing authority shall provide to the Department by May 1 of
32 each year, information that substantiates that the proposed service charge for the
33 anticipated lost interest is reasonably equivalent to the amount of interest that will
34 be lost as a result of the semiannual payment.

35 (h) (1) The property tax bill under a semiannual payment schedule:

36 (i) shall state:

- 1 1. the amount of the tax due if paid in full, including any
2 applicable discounts for early payment;
- 3 2. the amount of the tax due if paid in semiannual
4 installments, including any applicable discounts for early payment of the first
5 installment;
- 6 3. the amount of any service charge to be paid with the
7 second installment unless the second installment is paid on or before September 30 of
8 the taxable year;
- 9 4. that the service charge does not apply if both installments
10 are paid on or before September 30 of the taxable year; and
- 11 5. the date the tax payment is due; and
- 12 (ii) shall be subject to approval by the Department of Assessments
13 and Taxation.
- 14 (2) The Department shall approve any local semiannual payment
15 schedule collection that:
 - 16 (i) provides efficient and cost-effective collection of taxes; and
 - 17 (ii) provides two semiannual coupons, two semiannual billing
18 forms, or a similar method that allows taxpayers to pay on a semiannual basis.
- 19 (3) Local semiannual payment schedule collection systems that are not
20 approved by the Department shall utilize 2 semiannual payment coupons that shall
21 be submitted with the appropriate payment.
- 22 (i) A payment under a semiannual schedule:
 - 23 (1) for the first installment:
 - 24 (i) is due on July 1 of the tax year; and
 - 25 (ii) may be paid without interest on or before September 30 of the
26 tax year; and
 - 27 (2) for the second installment:
 - 28 (i) is due on December 1 of the tax year;
 - 29 (ii) except for the service charge, may be paid without interest on or
30 before December 31 of the tax year; and
 - 31 (iii) may be prepaid without the service charge or interest on or
32 before September 30 of the tax year.

1 (j) (1) If an escrow account is established for the payment of the property
2 tax, the escrow account servicer shall pay tax in semiannual installments unless the
3 escrow account servicer has received written direction from the property owner or
4 borrower to pay property tax in annual payments.

5 (2) If a taxpayer provides written direction to an escrow account servicer
6 at least 60 days prior to the beginning of the tax year, property taxes shall be paid on
7 an annual payment basis on behalf of that taxpayer by the escrow account servicer in
8 the tax year that begins immediately following the year in which the written direction
9 was received.

10 (3) If a taxpayer provides written direction to an escrow account servicer
11 less than 60 days prior to the beginning of the tax year, property taxes may be paid on
12 an annual payment basis on behalf of that taxpayer by the escrow account servicer in
13 the tax year that begins immediately following the year in which the written direction
14 was received.

15 SECTION 2. AND BE IT FURTHER ENACTED, That on or before September
16 30, 2004, the Department of Assessments and Taxation may accept applications for
17 the taxable year beginning July 1, 2004.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
19 effect June 1, 2004, and shall be applicable to all taxable years beginning after June
20 30, 2004.